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1 (All parties present via videoconference, including  
2 the defendant.)

3 THE COURTROOM DEPUTY: United States versus Luna,  
4 docket number 19-CR-576.

5 Counsel, please state your appearances starting with  
6 the Government.

7 MR. HARRIS: Ryan Harris for the United States. I'm  
8 joined by Philip Pilmar and Erin Reid.

9 Good afternoon, Your Honor.

10 Good afternoon, everyone.

11 MR. DE CASTRO: Good afternoon.

12 Cesar De Castro and Valerie Gotlib for Mr. Garcia  
13 Luna.

14 THE COURT: Good afternoon.

15 And I see in the video that Mr. Garcia Luna is here  
16 as well.

17 Good afternoon, sir.

18 THE DEFENDANT: Good afternoon, sir.

19 THE COURT: I don't think I need to make any  
20 findings in order to do this conference by video because it's  
21 just a status conference, but I assume that everyone consents  
22 to doing it by video; is that right?

23 MR. HARRIS: The Government consents, Your Honor.

24 MR. DE CASTRO: Yes for the defense.

25 THE COURT: Okay. So I have the Government's motion

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1 for a Section 2 conference. Let me know what else is going  
2 on. I have read the status report, of course, that was  
3 submitted.

4 Mr. Harris?

5 MR. HARRIS: Yes, Your Honor. So the Government has  
6 filed its Section 2 motion. We are respectfully requesting  
7 that the Court schedule a date for that conference.

8 Also set forth in the status report, Your Honor, the  
9 parties have conferred, and we would like to start setting a  
10 trial schedule for the case. We discussed a fall date.  
11 Depending on the Court's availability, I understand, of  
12 course -- I will pause here for the translation.

13 Your Honor, so we request a trial date and a  
14 schedule be set. I understand, of course, that scheduling a  
15 trial during the COVID era has its own particular challenges,  
16 but we are looking -- we were discussing a fall date,  
17 depending on the Court's availability. The Government  
18 anticipates that a trial in this case --

19 THE INTERPRETER: I'm sorry, Prosecutor, can you go  
20 back a little bit? Because of the interruption, the  
21 interpreter couldn't hear. You said fall date?

22 MR. HARRIS: A fall date. The Government  
23 anticipates that this case will take approximately eight  
24 weeks.

25 THE COURT: All right. So we have two dates to set.

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1 One for the Section 2 hearing and one for the trial.

2 Mr. De Castro, is there anything you need to add to  
3 that?

4 MR. DE CASTRO: The only thing I would add, Judge,  
5 is, yes, I've discussed all of that with the Government.  
6 The -- as you know, the Government has produced a million plus  
7 documents, so we are weeding through that. That doesn't  
8 necessarily also include all of the audio that they have  
9 produced, and it is substantial. That's not to say that any  
10 of the -- most of it does not necessarily relate to Mr. Garcia  
11 Luna. The majority of the discovery that we have reviewed  
12 does not relate to Mr. Garcia Luna, but it's still difficult  
13 to get through, so I think the only thing to put on the  
14 Court's radar is that I may be making a request, slash, motion  
15 for a Bill of Particulars, but I wouldn't do that before  
16 talking to the Government, of course, and making that request  
17 of them first.

18 THE INTERPRETER: Mr. De Castro, I'm sorry, would  
19 you allow me to please interpret?

20 MR. DE CASTRO: I'm sorry. Sorry about that.

21 Thank you.

22 And so, of course, I would make that request for the  
23 Government. And then depending on the response, I may make a  
24 request of the Court.

25 THE COURT: That all sounds fine. The only question

1 I have primarily for you, Mr. Harris, is do you really think  
2 that the fall of next year -- fall 2022 -- is long enough?  
3 Because it seems to me if we have the Section 2 hearing  
4 sometime in early December, and then we get the CIPA process  
5 started at that point, plus with all the trial preparation the  
6 parties are going to have to do, is that enough time?

7 MR. HARRIS: So, Your Honor, of course there's going  
8 to be a tremendous amount of preparation that has to go into  
9 this process of trying this case and into the CIPA litigation,  
10 so our goal, Your Honor, was to get a date on the Court's  
11 calendar. Certainly, we don't want to get a date that the  
12 parties are struggling to meet, get a realistic date that  
13 works for all of the parties.

14 Going back to Mr. DeCastro's point, to the extent we  
15 can facilitate his review in a way that is appropriate, you  
16 know, we'll endeavor to do so, and so, you know, we defer to  
17 the Court on scheduling, but we do -- are cognizant of the  
18 tremendous amount of work that's going to have to take place  
19 in order to get this case in a position for trial and, of  
20 course, the peculiarities of getting on a calendar -- a trial  
21 calendar -- in the COVID era.

22 THE COURT: I think what I want to do, in light of  
23 these considerations, is set two trial dates, one for the  
24 fall, and then a fallback date -- no pun intended -- if it  
25 doesn't work out in the fall. So let's actually set three

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1 dates today.

2 First, Melonie, give me the date for the Section 2  
3 hearing about 45 days from now.

4 THE COURTROOM DEPUTY: December 15th at 9:00 a.m.

5 MR. HARRIS: And that's fine for the Government.

6 Thank you, Your Honor.

7 THE COURT: I'm sorry, I missed the date. Say it  
8 again.

9 THE COURTROOM DEPUTY: December 15th at 9:00 a.m.

10 THE COURT: Okay.

11 Is that okay with you, Mr. De Castro?

12 MR. DE CASTRO: Your Honor, I believe that would be  
13 an ex parte proceeding.

14 THE COURT: Maybe it will, maybe it won't.

15 Is that your view, Mr. Harris, that you need an  
16 ex parte proceeding?

17 MR. HARRIS: I believe so, Your Honor, but if I'm  
18 incorrect in that, we will write a letter to the Court  
19 advising of that.

20 THE COURT: I think it's the Government's call.  
21 Very often, the Section 2 hearings are, in fact, ex parte, but  
22 sometimes the Government feels they can lay out what's going  
23 on without the need for being ex parte.

24 So let's assume that it is at this point, but, as  
25 you put your position together, Mr. Harris, you decide

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1 otherwise, you will let Mr. De Castro know.

2 MR. HARRIS: Yes, Your Honor.

3 MR. DE CASTRO: I am available that date, if it's  
4 not ex parte.

5 THE COURT: Let's, next, set a target date for  
6 trial.

7 Excuse me one second.

8 THE COURTROOM DEPUTY: October 24th, 2022.

9 THE COURT: That's a little later than I want to go  
10 only because if we have that, we're necessarily going to have  
11 to take an extended Thanksgiving break.

12 On the other hand, I think that probably is the  
13 minimum amount of time that we're going to need.

14 Mr. Harris, do you think it would be realistic to  
15 set a mid-September date, or would that be too much?

16 MR. HARRIS: Your Honor, in the interest of  
17 increasing the chances that the initial date sticks, I think  
18 that a mid to late October date would probably certainly  
19 increase the chances that all the parties will be prepared and  
20 we won't have to push to a second date.

21 THE COURT: Okay. And let's use as a fallback date  
22 either January 9th or January 16th of 2023. The reason I'm  
23 not picking one of those is because we don't have a jury  
24 selection calendar out yet for 2023, so I don't know which one  
25 of those days will be a jury selection day.

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1 I will ask the parties to hold those dates and we'll  
2 let you know once the jury selection calendar comes out which  
3 one is our fallback date.

4 MR. HARRIS: Thank you, Your Honor.

5 One clarification question. With respect to the  
6 October date, does the Court anticipate jury selection  
7 beginning on the 24th or jury selection beginning, for  
8 example, two weeks earlier with the trial set to start on the  
9 24th?

10 THE COURT: October 24th is a jury selection date,  
11 but there's going to be a question as to whether we use  
12 questionnaires, which might take the better part of that week.  
13 I would like the parties to confer and send me a letter as to  
14 whether you think we should be using questionnaires; and, if  
15 so, what the calendar -- the scheduling dates are that would  
16 allow us to do that.

17 Do you understand?

18 MR. HARRIS: Understood, Your Honor.

19 THE COURT: Okay. Now, I think I've previously  
20 designated this case as complex. If I haven't, I'm doing it  
21 now for reasons that are obvious from this record. I'm  
22 therefore going to exclude time. When should we have our next  
23 status conference?

24 MR. HARRIS: Your Honor, we have been for proceeding  
25 with status conferences every 60 days. I would respectfully

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1 suggest the Court continue that. Of course, I don't want to  
2 ruin anyone's holiday -- December holiday schedule, so perhaps  
3 a week or two before or after the end of December would be  
4 appropriate.

5 THE COURT: Melonie, how about early December?

6 THE COURTROOM DEPUTY: December 8th at 12:00 p.m.

7 THE COURT: Does that work for everyone?

8 MR. HARRIS: That's fine for the Government, Your  
9 Honor.

10 MR. DE CASTRO: Judge, is that going to be video or  
11 telephone?

12 THE COURT: Assuming the parties' consent, we will  
13 do it just like this one by video.

14 MR. DE CASTRO: I have a scheduled sentencing at  
15 2:00 in the Southern District, but it is right now scheduled  
16 for telephonic, so I will let the Court know if there's a  
17 change.

18 THE COURT: Okay.

19 MR. HARRIS: I'm sorry, Melonie, did we say  
20 12:00 p.m. on December 8th?

21 THE COURTROOM DEPUTY: Correct.

22 THE COURT: All right. I will exclude time until  
23 our next status conference. I find that the ends of justice  
24 outweigh the interest of the public and the defendant in a  
25 speedy trial because of the complexity of the case.

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1 Anything else we need to cover today?

2 MR. HARRIS: Not from the Government.

3 Thank you, Your Honor.

4 MR. DE CASTRO: Not from the defense.

5 Thank you.

6 THE COURT: All right. Thank you all for calling  
7 in.

8 We are adjourned.

9 (Matter concluded.)

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13 I certify that the foregoing is a correct transcript from the  
14 record of proceedings in the above-entitled matter.

15 /s/ Denise Parisi

December 14, 2022

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DENISE PARISI

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DATE

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